

AMENDED IN ASSEMBLY APRIL 16, 2007

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1137

Introduced by Assembly Member Eng
(Principal coauthor: Senator Ridley-Thomas)

February 23, 2007

~~An act to amend Section 473.4 of the Business and Professions Code, relating to regulatory programs.~~ *An act to amend Section 101 of, to amend, renumber, and add Sections 1000, 1001, 1002, 1003, 1004, and 1005 of, and to add Sections 1006, 1006.5, 1007, 1008, 1009, 1010, 1011, 1012, 1012.5, 1013, 1014, 1015, 1016, 1017, 1018, 1018.5, and 1019 to, the Business and Professions Code, and to amend an initiative act entitled “An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent therewith” approved by electors November 7, 1922, by amending Sections 1, 2, 3, 4, 6, and 14 thereof and adding Section 1.5, 6.5, 11, and 18.5 thereto, relating to chiropractors.*

LEGISLATIVE COUNSEL’S DIGEST

AB 1137, as amended, Eng. ~~Boards and commissions—Chiropractors.~~
Existing law, the Chiropractic Act, enacted by initiative, provides for the licensing and regulation of chiropractors by the State Board of Chiropractic Examiners, which is composed of 7 members appointed by the Governor. Under the act, the board is required to employ an executive officer. Existing law establishes the Department of Consumer

Affairs in the State and Consumer Services Agency, and the department is composed of various boards that regulate members of professions, including the healing arts and vocations.

This bill would include the board in the Department of Consumer Affairs. The bill would reduce the number of members appointed by the Governor to 5, including 2 public members, and would specify that 1 public member be appointed by the Senate Committee on Rules and 1 public member by the Speaker of the Assembly, and would require the members appointed by the Governor to be confirmed by the Senate. The bill would exempt the executive officer from civil service, and would specify that other employees of the board are subject to those provisions. The bill would also specify that protection of the public is the highest priority of the board. The bill would provide that the Attorney General be legal counsel for the board, and that the board be subject to specified meeting and disclosure requirements and procedures for disciplinary actions. The bill would also require that all appropriations from the State Board of Chiropractic Examiners' Fund be made by the Legislature in the annual Budget Act. The bill would allow the Legislature to amend, repeal, or add the act by a majority vote.

Because the bill would amend an initiative act, the bill would require certain of its provisions be submitted to the voters for approval. The bill would also codify the provisions of the Chiropractic Act, as amended by this act, which codification would be operative only if the amendments to the initiative act are approved by the voters.

~~Existing law creates various boards to license and regulate professions and vocations and other matters. Under existing law, the Joint Committee on Boards, Commissions, and Consumer Protection is required to determine if a public need exists for the continued existence of a board based on specified factors.~~

~~This bill would also require the committee to consider as a factor whether the functions of the board would be accomplished more effectively if the board were replaced by a single executive officer.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) *The voters of California approved an initiative measure at*
2 *the General Election held on November 7, 1922, that authorized*
3 *the practice of chiropractic in California and created the State*
4 *Board of Chiropractic Examiners to regulate the chiropractic*
5 *profession in the public interest.*

6 (b) *Because that act is an initiative statute with no provision*
7 *for its amendment by the Legislature, subdivision (c) of Section*
8 *10 of Article II of the California Constitution requires that it be*
9 *amended only by way of another statute approved by the voters.*

10 (c) *The inability of the legislative branch of state government*
11 *to amend the initiative statute governing the State Board of*
12 *Chiropractic Examiners has prevented it from exercising the same*
13 *level of oversight, checks and balances, spending review, and*
14 *public accountability that apply to other boards that regulate*
15 *health care professions, including physicians and surgeons,*
16 *osteopaths, nurses, pharmacists, and acupuncturists.*

17 (d) *Practitioners of chiropractic have become confused by court*
18 *decisions, including Tain v. Board of Chiropractic Examiners*
19 *(2005) 130 Cal.App.4th 609, that held that Section 7 of the*
20 *Chiropractic Act limits authorized chiropractic healing practices*
21 *to those taught in chiropractic schools at the time of the enactment*
22 *of the act in 1922, and that authorization may not be enlarged by*
23 *any changes to the curriculum of those schools.*

24 (e) *The Legislature has attempted to apply to chiropractors*
25 *numerous provisions of the Business and Professions Code that*
26 *currently apply to other health care professions, including Sections*
27 *650 and 1005, the validity of which is unclear under subdivision*
28 *(c) of Section 10 of Article II of the California Constitution.*

29 (f) *The practice of chiropractic merits the same level of executive*
30 *and legislative branch oversight as the practices of medicine,*
31 *nursing, podiatric medicine, optometry, and pharmacy.*

32 SEC. 2. *Section 101 of the Business and Professions Code is*
33 *amended to read:*

34 101. The department is comprised of:

35 (a) The Dental Board of California.

36 (b) The Medical Board of California.

37 (c) The State Board of Optometry.

38 (d) The California State Board of Pharmacy.

39 (e) The Veterinary Medical Board.

40 (f) The California Board of Accountancy.

- 1 (g) The California Architects Board.
- 2 (h) The Bureau of Barbering and Cosmetology.
- 3 (i) The Board for Professional Engineers and Land Surveyors.
- 4 (j) The Contractors' State License Board.
- 5 (k) The Bureau for Private Postsecondary and Vocational
- 6 Education.
- 7 (l) The Structural Pest Control Board.
- 8 (m) The Bureau of Home Furnishings and Thermal Insulation.
- 9 (n) The Board of Registered Nursing.
- 10 (o) The Board of Behavioral Sciences.
- 11 (p) The State Athletic Commission.
- 12 (q) The Cemetery and Funeral Bureau.
- 13 (r) The State Board of Guide Dogs for the Blind.
- 14 (s) The Bureau of Security and Investigative Services.
- 15 (t) The Court Reporters Board of California.
- 16 (u) The Board of Vocational Nursing and Psychiatric
- 17 Technicians.
- 18 (v) The Landscape Architects Technical Committee.
- 19 (w) The Bureau of Electronic and Appliance Repair.
- 20 (x) The Division of Investigation.
- 21 (y) The Bureau of Automotive Repair.
- 22 (z) The State Board of Registration for Geologists and
- 23 Geophysicists.
- 24 (aa) The Respiratory Care Board of California.
- 25 (ab) The Acupuncture Board.
- 26 (ac) The Board of Psychology.
- 27 (ad) The California Board of Podiatric Medicine.
- 28 (ae) The Physical Therapy Board of California.
- 29 (af) The Arbitration Review Program.
- 30 (ag) The Committee on Dental Auxiliaries.
- 31 (ah) The Hearing Aid Dispensers Bureau.
- 32 (ai) The Physician Assistant Committee.
- 33 (aj) The Speech-Language Pathology and Audiology Board.
- 34 (ak) The California Board of Occupational Therapy.
- 35 (al) The Osteopathic Medical Board of California.
- 36 (am) The Bureau of Naturopathic Medicine.
- 37 (an) *The State Board of Chiropractic Examiners.*
- 38 ~~(an)~~
- 39 (ao) Any other boards, offices, or officers subject to its
- 40 jurisdiction by law.

1 *SEC. 3. Section 1000 of the Business and Professions Code is*
2 *amended and renumbered to read:*

3 ~~1000.~~

4 1030. The law governing practitioners of chiropractic is found
5 in *this chapter and in an initiative act entitled “An act prescribing*
6 *the terms upon which licenses may be issued to practitioners of*
7 *chiropractic, creating the State Board of Chiropractic Examiners*
8 *and declaring its powers and duties, prescribing penalties for*
9 *violation hereof, and repealing all acts and parts of acts inconsistent*
10 *herewith,” adopted by the electors November 7, 1922.*

11 *SEC. 4. Section 1000 is added to the Business and Professions*
12 *Code, to read:*

13 1000. A board is hereby created to be known as the “State
14 Board of Chiropractic Examiners,” hereinafter referred to as the
15 board. The board shall consist of seven members. Five members
16 shall be appointed by the Governor, subject to confirmation by
17 the Senate, two of whom shall be public members. The Senate
18 Committee on Rules and the Speaker of the Assembly shall each
19 appoint one public member. Each member shall be a citizen of the
20 United States and shall have been a resident of California for five
21 years. Each licensee member shall have had at least five years of
22 licensure in this state prior to appointment. Each licensee member
23 must have pursued a resident course in an approved chiropractic
24 school or college, and must be a graduate thereof and hold a
25 diploma therefrom.

26 Not more than two persons shall serve simultaneously as
27 members of the board, whose first diplomas were issued by the
28 same school or college of chiropractic, nor shall more than two
29 members be residents of any one county of the state. And no person
30 who is or within one year of the proposed appointment has been
31 an administrator, policy board member, or paid employee of any
32 chiropractic school or college shall be eligible for appointment
33 to the board. Each member of the board shall receive a per diem
34 in the amount provided in Section 103 for each day during which
35 he or she is actually engaged in the discharge of his or her duties,
36 together with his or her actual and necessary travel expenses
37 incurred in connection with the performance of the duties of his
38 or her office, and the per diem, travel expenses and other incidental
39 expenses of the board or of its members shall be paid out of the

1 *funds of the board hereinafter defined and not from the state's*
2 *taxes.*

3 *The Legislature may, upon review, repeal this section and*
4 *reconstitute the board.*

5 *SEC. 5. Section 1001 of the Business and Professions Code is*
6 *amended and renumbered to read:*

7 ~~1001.~~

8 *1031.* In each year, the State Board of Chiropractic Examiners
9 shall compile and may thereafter publish and sell a complete
10 directory of all persons within the state who hold unforfeited and
11 unrevoked certificates to practice chiropractic, and whose
12 certificate in any manner authorizes the treatment of human beings
13 for diseases, injuries, deformities, or any other physical or mental
14 conditions.

15 The directory shall contain:

16 (a) The following information concerning each such person:

17 1. The name and address of ~~such~~ *the* person.

18 2. The names and symbols indicating his *or her* title.

19 3. The school, attendance at which qualified him *or her* for
20 examination or admission to practice.

21 4. The date of the issuance of his *or her* certificate.

22 (b) The annual report of the board for the prior year.

23 (c) Information relating to other laws of this state and the United
24 States ~~which~~ *that* the board determines to be of interest to persons
25 licensed to practice chiropractic.

26 (d) Copies of opinions of the Attorney General relating to the
27 practice of chiropractic.

28 (e) A copy of the provisions of this chapter ~~and a copy of the~~
29 ~~act cited in Section 1000.~~

30 The board may require the persons designated in this section to
31 furnish ~~such~~ information as it may deem necessary to enable it to
32 compile the directory. Every person so designated shall report
33 immediately each and every change of residence, giving both his
34 *or her* old and new address.

35 The directory shall be evidence of the right of the persons named
36 in it to practice unless his *or her* certificate to practice chiropractic
37 has been canceled, suspended or revoked. The board may collect
38 from each person who voluntarily subscribes to or purchases a
39 copy of the directory the cost of publication and distribution

1 thereof; except that one copy of the directory shall be distributed
2 without charge to each certificate holder of the board.

3 *SEC. 6. Section 1001 is added to the Business and Professions*
4 *Code, to read:*

5 *1001. Protection of the public shall be the highest priority for*
6 *the board in exercising its licensing, regulatory, and disciplinary*
7 *functions. Whenever the protection of the public is inconsistent*
8 *with the other interests sought to be promoted, the protection of*
9 *the public shall be paramount.*

10 *SEC. 7. Section 1002 of the Business and Professions Code is*
11 *amended and renumbered to read:*

12 ~~1002.~~

13 *1032. Whenever any person has engaged in or is about to*
14 *engage in any acts or practices—~~which~~ that constitute or will*
15 *constitute an offense against the ~~Chiropractic Act~~ this chapter or*
16 *its rules or regulations adopted pursuant to this chapter, the*
17 *superior court of any county, on application of the State Board of*
18 *Chiropractic Examiners, or on application of 10 or more ~~persons~~*
19 *licensed under the ~~Chiropractic Act~~ licensees of the State Board*
20 *of Chiropractic Examiners may issue an injunction or other*
21 *appropriate order restraining that conduct. Proceedings under this*
22 *section shall be governed by Chapter 3 (commencing with Section*
23 *525) of Title 7 of Part 2 of the Code of Civil Procedure.*

24 *SEC. 8. Section 1002 is added to the Business and Professions*
25 *Code, to read:*

26 *1002. Each appointment to the board shall be for the term of*
27 *four years, except that an appointment to fill a vacancy shall be*
28 *for the unexpired term only. Each member shall serve until his or*
29 *her successor has been appointed and qualified or until one year*
30 *has elapsed since the expiration of his or her term whichever first*
31 *occurs. No person shall serve more than two consecutive terms*
32 *on the board nor be eligible for appointment thereafter until the*
33 *expiration of four years from the expiration of the second*
34 *consecutive term, effective January 2, 1974. The Governor may*
35 *remove a member from the board after receiving sufficient proof*
36 *of the inability or misconduct of the member.*

37 *SEC. 9. Section 1003 of the Business and Professions Code is*
38 *amended and renumbered to read:*

1 ~~1003.~~

2 1033. (a) Except as otherwise allowed by law, the employment
3 of runners, cappers, steerers, or other persons to procure patients
4 constitutes unprofessional conduct.

5 (b) A licensee of the State Board of Chiropractic Examiners
6 shall have his or her license to practice revoked for a period of 10
7 years upon a second conviction for violating any of the following
8 provisions or upon being convicted of more than one count of
9 violating any of the following provisions in a single case: Section
10 650 of this code, Section 750 or 1871.4 of the Insurance Code, or
11 Section 549 or 550 of the Penal Code. After the expiration of this
12 10-year period, an application for license reinstatement may be
13 made pursuant to subdivision (c) of Section ~~10~~ of the Chiropractic
14 ~~Act~~ 1010.

15 *SEC. 10. Section 1003 is added to the Business and Professions*
16 *Code, to read:*

17 1003. *The board shall elect a chairman and a vice chairman*
18 *and a secretary to be chosen from the members of the board. The*
19 *board shall appoint a person exempt from civil service, by and*
20 *with the approval of the Director of Consumer Affairs, to be*
21 *designated as an executive officer. Elections of the officers shall*
22 *occur annually at the January meeting of the board. A majority of*
23 *the board shall constitute a quorum.*

24 *It shall require the affirmative vote of four members of the board*
25 *to carry any motion or resolution, to adopt any rule, or to authorize*
26 *the issuance of any license provided for in this chapter. The*
27 *executive officer shall receive a salary to be fixed by the board,*
28 *with the approval of the Director of Finance, together with his or*
29 *her actual and necessary traveling expenses incurred in connection*
30 *with the performance of the duties of his or her office, and shall*
31 *give bond to the state in a sum and with such sureties as the board*
32 *may deem proper. He or she shall keep a record of the proceedings*
33 *of the board, which shall at times during business hours be open*
34 *to the public for inspection. He or she shall keep a true and*
35 *accurate account of all funds received and of all expenditures*
36 *incurred or authorized by the board, and on the first day of*
37 *December of each year he or she shall file with the Governor or*
38 *his or her designee, a report of all receipts and disbursements and*
39 *of the proceedings of the board for the preceding fiscal year.*

1 *SEC. 11. Section 1004 of the Business and Professions Code*
2 *is amended and renumbered to read:*

3 ~~1004.~~

4 1034. The State Board of Chiropractic Examiners shall
5 investigate any licensee against whom an information or indictment
6 has been filed that alleges a violation of Section 550 of the Penal
7 Code or Section 1871.4 of the Insurance Code, if the district
8 attorney does not otherwise object to initiating an investigation.

9 *SEC. 12. Section 1004 is added to the Business and Professions*
10 *Code, to read:*

11 1004. Powers of board. The board shall have power:

12 (a) To adopt a seal, which shall be affixed to all licenses issued
13 by the board.

14 (b) To adopt from time to time rules and regulations as the
15 board may deem proper and necessary for the performance of its
16 work, the effective enforcement and administration of this chapter,
17 the establishment of educational requirements for license renewal,
18 and the protection of the public. These rules and regulations shall
19 be adopted, amended, repealed and established in accordance
20 with the provisions of Chapter 4.5 (commencing with Section
21 11400) of Part 1 of Division 3 of Title 2 of the Government Code
22 as it now reads or as it may be hereafter amended by the
23 Legislature.

24 (c) To examine applicants and to issue and revoke licenses to
25 practice chiropractic, as provided in this chapter.

26 (d) To summon witnesses and to take testimony as to matters
27 pertaining to its duties; and each member shall have power to
28 administer oaths and take affidavits.

29 (e) To do any and all things necessary or incidental to the
30 exercise of the powers and duties granted or imposed by this
31 chapter.

32 (f) To determine minimum requirements for teachers in
33 chiropractic schools and colleges.

34 (g) To approve chiropractic schools and colleges whose
35 graduates may apply for licenses in this state. The following shall
36 be eligible for approval:

37 (1) Any chiropractic school or college having status with the
38 accrediting agency and meeting the requirements of Section 1005
39 and the rules and regulations adopted by the board.

1 (2) Any chiropractic school or college initially commencing
2 instruction prior to November 2, 1976, provided that the school
3 or college meets the requirements of Section 1005 and the rules
4 and regulations adopted by the board and provided that the school
5 or college attained status with the accrediting agency within a
6 time period commencing on November 7, 1978, and ending March
7 1, 1980.

8 (3) Any chiropractic school or college initially commencing
9 instruction subsequent to November 2, 1976, provided that the
10 school or college meets the requirements of Section 1005 and the
11 rules and regulations adopted by the board and provided that the
12 school or college attains status with the accrediting agency within
13 a time period not exceeding three years following the
14 commencement of instruction.

15 Upon submission of evidence satisfactory to the board that the
16 accrediting agency has unreasonably denied status to a
17 chiropractic school or college approved under paragraph (2) or
18 (3) of this subdivision by not considering the application for status
19 submitted by that school or college in a timely manner; by denying
20 the application for status submitted by that school or college
21 without good cause, or by imposing arbitrary and capricious
22 additional requirements upon that school or college as conditions
23 for the attainment of status, the board shall grant an extension of
24 the time period for the attainment of status specified in the
25 paragraph under which that school or college is approved, as it
26 applies to that school or college, of at least six months but no more
27 than one year. Prior to the expiration of the extension or of any
28 additional extension the board grants, the board shall determine
29 whether that school or college has been unreasonably denied status
30 by the accrediting agency for any of the reasons specified in the
31 immediately preceding sentence during the extension. Should the
32 board determine that unreasonable denial of status during the
33 extension has occurred, the board shall grant an additional
34 extension of the time period for the attainment of status, as it
35 applies to that school or college, of at least six months but no more
36 than one year.

37 As used in this section, "accrediting agency" means (1) the
38 Accrediting Commission of the Council on Chiropractic Education,
39 other chiropractic school and college accrediting agencies as may
40 be recognized by the United States Commissioner of Education,

1 *or chiropractic school and college accrediting agencies employing*
2 *equivalent standards for accreditation as determined by the board,*
3 *(2) if the commission ceases to exist or ceases to be recognized by*
4 *the commissioner, a chiropractic school and college accrediting*
5 *agency as may be designated by the board or chiropractic school*
6 *and college accrediting agencies employing equivalent standards*
7 *for accreditation as determined by the board, or (3) if the*
8 *commission ceases to exist or ceases to be recognized by the*
9 *commissioner, no other accrediting agency is recognized by the*
10 *commissioner, and no accrediting agency is acceptable to the*
11 *board, the board.*

12 *As used in this section, “status” means correspondent status,*
13 *status as a recognized candidate for accreditation, accredited*
14 *status, or other similar status as may be adopted and used by the*
15 *accrediting agency.*

16 *As used in this section, “in a timely manner” means within the*
17 *time deadlines as may be established by the accrediting agency*
18 *for submission of applications, consideration of applications*
19 *submitted, acceptance or rejection of applications submitted, and*
20 *other similar functions, as those time deadlines are interpreted by*
21 *the board.*

22 *As used in this section, “without good cause” means not in*
23 *accordance with rules and regulations that may be established by*
24 *the accrediting agency as conditions for the attainment of status,*
25 *as those rules and regulations are interpreted by the board.*

26 *As used in this section, “arbitrary and capricious additional*
27 *requirements” means requirements that may be imposed by the*
28 *accrediting agency as conditions for the attainment of status during*
29 *the time period specified for the attainment of status by a*
30 *chiropractic school or college that, in the board’s judgment, cannot*
31 *be satisfied within the time period or do not serve to improve the*
32 *educational standards or quality of the school or college.*

33 *(h) The board may employ any investigators, clerical assistants,*
34 *commissioners on examination, and other employees as it may*
35 *deem necessary to carry into effect the provisions of this chapter;*
36 *and shall prescribe the duties of those employees. Persons*
37 *employed pursuant to this subdivision shall be subject to the State*
38 *Civil Service Act (Part 2 (commencing with Section 18500) of*
39 *Division 5 of Title 5 of the Government Code).*

1 *SEC. 13. Section 1005 of the Business and Professions Code*
2 *is amended and renumbered to read:*

3 ~~1005.~~

4 1035. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35,
5 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141,
6 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 490.5,
7 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704,
8 710, 716, 730.5, 731, and 851 are applicable to persons licensed
9 by the State Board of Chiropractic Examiners—~~under the~~
10 ~~Chiropractic Act.~~

11 *SEC. 14. Section 1005 is added to the Business and Professions*
12 *Code, to read:*

13 1005. *It shall be unlawful for any person to practice*
14 *chiropractic in this state without a license to do so. Any person*
15 *wishing to practice chiropractic in this state shall make application*
16 *to the board 45 days prior to any meeting thereof, in a form and*
17 *manner provided by the board. Proof of graduation from an*
18 *approved chiropractic school or college, as defined in Section*
19 *1004, shall be received by the board 15 days prior to any meeting*
20 *of the board. Each application shall be accompanied by a license*
21 *fee of not more than one hundred dollars (\$100), as determined*
22 *by the board. Except as otherwise provided in this chapter, each*
23 *applicant shall present to the board at the time of making an*
24 *application a diploma from a high school and a transcript of 60*
25 *prechiropractic college credits satisfactory to the board, or proof,*
26 *satisfactory to the board, of education equivalent in training power*
27 *to such high school and college courses.*

28 *The schedule of minimum educational requirements to enable*
29 *any person to practice chiropractic in this state shall be as*
30 *provided in Section 5 of the Chiropractic Act, except as otherwise*
31 *provided in this chapter.*

32 *Any applicant who had matriculated at a chiropractic college*
33 *prior to the effective date of the amendments to Section 5 of the*
34 *Chiropractic Act submitted to the electors by the 1977–1978*
35 *Regular Session of the Legislature shall meet all requirements that*
36 *existed immediately prior to the effective date of those amendments*
37 *but need not meet the change in requirements made by those*
38 *amendments.*

39 *SEC. 15. Section 1006 is added to the Business and Professions*
40 *Code, to read:*

1 1006. (a) *The office of the board shall be in the City of*
2 *Sacramento. Suboffices may be established in Los Angeles and*
3 *San Francisco, and any records as may be necessary may be*
4 *transferred temporarily to the suboffices. Legal proceedings*
5 *against the board may be instituted in any one of the three cities.*

6 (b) *All meetings of the board shall be conducted in accordance*
7 *with the provisions of the Bagley-Keene Open Meeting Act (Article*
8 *9 (commencing with Section 11120) of Chapter 1 of Part 1 of*
9 *Division 3 of Title 2 of the Government Code).*

10 (c) *The board shall meet as a board of examiners at least twice*
11 *each calendar year, at times and places as may be found necessary*
12 *for the performance of its duties.*

13 (d) *The board shall comply with the requirements of Chapter*
14 *22.5 (commencing with Section 7528) of Division 7 of Title 1 of*
15 *the Government Code and with the provisions of Article 10*
16 *(commencing with Section 11364) of Chapter 3.5 of Part 1 of*
17 *Division 3 of Title 2 of the Government Code.*

18 (e) *Examinations shall be written, oral, and practical, covering*
19 *chiropractic as taught in chiropractic schools or colleges, designed*
20 *to ascertain the fitness of the applicant to practice chiropractic.*
21 *The examination shall include at least each of the subjects as set*
22 *forth in Section 5 of the Chiropractic Act. Identity of the applicants*
23 *shall not be disclosed to the examiners until after examinations*
24 *have been given final grades. A license shall be granted to any*
25 *applicant who makes a general average of 75 percent, and does*
26 *not fall below 60 percent in more than two subjects or branches*
27 *of the examination and receives a 75 percent score in all parts of*
28 *the practical examination as designated by the board. Any*
29 *applicant failing to make the required grade shall be given credit*
30 *for the branches passed, and may, without further cost, take the*
31 *examination at the next regular examination on the subjects in*
32 *which he or she failed. For each year of actual practice since*
33 *graduation the applicant shall be given a credit of 1 percent on*
34 *the general average.*

35 (f) *An applicant having fulfilled the requirements of Section*
36 *1005 and paid the fee thereunder, and having obtained a diplomate*
37 *certificate from the National Board of Chiropractic Examiners,*
38 *may offer the certificate together with a transcript of grades*
39 *secured in the national board examination, and the California*
40 *Board of Chiropractic Examiners may accept those in lieu of all*

1 or a portion of the California board examination, as determined
2 by the board.

3 SEC. 16. Section 1006.5 is added to the Business and
4 Professions Code, to read:

5 1006.5. The Attorney General shall act as legal counsel for
6 the board and shall represent the board in any judicial and
7 administrative proceeding. His or her services shall be a charge
8 against the board.

9 SEC. 17. Section 1007 is added to the Business and Professions
10 Code, to read:

11 1007. One form of certificate shall be issued by the State Board
12 of Chiropractic Examiners, which shall be designated "License
13 to practice chiropractic," and shall authorize the holder thereof
14 to practice chiropractic in the state of California as taught in
15 chiropractic schools or colleges; and, also, to use all necessary
16 mechanical, and hygienic and sanitary measures incident to the
17 care of the body, but shall not authorize the practice of medicine,
18 surgery, osteopathy, dentistry or optometry, nor the use of any
19 drug or medicine now or hereafter included in materia medica.

20 SEC. 18. Section 1008 is added to the Business and Professions
21 Code, to read:

22 1008. No blind person shall be denied admission into any
23 college or school of chiropractic or denied the right to take any
24 examination given by such school or college or denied a diploma
25 or certificate of graduation or a degree or denied admission into
26 any examination for a state license or denied a regular license to
27 practice chiropractic on the ground that he or she is blind.

28 SEC. 19. Section 1009 is added to the Business and Professions
29 Code, to read:

30 1009. Notwithstanding any provision of this chapter, the board,
31 upon receipt of the fee specified in Section 1005, shall issue a
32 license to any person licensed to practice chiropractic under the
33 laws of another state, provided that the state then had the same
34 general requirements as required in this state at the time the license
35 was issued and provided that the other state in like manner grants
36 reciprocal registration to chiropractic practitioners of this state.

37 The applicant shall also provide a certificate from the other state
38 stating that he or she was licensed by that state, that he or she has
39 not been convicted of unprofessional conduct, and that there is no
40 charge of unprofessional conduct pending against him or her.

1 SEC. 20. *Section 1010 is added to the Business and Professions*
2 *Code, to read:*

3 1010. (a) *The board may by rule or regulation adopt, amend,*
4 *or repeal rules of professional conduct appropriate to the*
5 *establishment and maintenance of a high standard of professional*
6 *service and the protection of the public. These rules or regulations*
7 *shall be adopted, amended, or repealed in accordance with the*
8 *provisions of Chapter 4.5 (commencing with Section 11400) of*
9 *Part 1 of Division 3 of Title 2 of the Government Code as it now*
10 *reads or as it may be hereafter amended.*

11 (b) *The board may refuse to grant, or may suspend or revoke,*
12 *a license to practice chiropractic in this state, or may place the*
13 *licensee upon probation or issue a reprimand to him or her, for*
14 *violation of the rules and regulations adopted by the board in*
15 *accordance with this chapter, or for any cause specified in this*
16 *chapter, including, but not limited to: The employment of fraud or*
17 *deception in applying for a license or in passing an examination*
18 *as provided in this chapter; the practice of chiropractic under a*
19 *false or assumed name; or the personation of another practitioner*
20 *of like or different name; a plea or verdict of guilty or a conviction*
21 *following a plea of nolo contendere made to a charge of a felony*
22 *or of any offense substantially related to the practice of*
23 *chiropractic; habitual intemperance in the use of ardent spirits,*
24 *narcotics or stimulants to such an extent as to incapacitate him*
25 *or her for the performance of his or her professional duties; the*
26 *advertising of any means whereby the monthly periods of women*
27 *can be regulated or the menses reestablished if suppressed; or the*
28 *advertising, directly, indirectly or in substance, upon any card,*
29 *sign, newspaper advertisement, or other written or printed sign*
30 *or advertisement, that the holder of such license or any other*
31 *person, company or association by which he or she is employed,*
32 *or in whose services he or she is, will treat, cure, or attempt to*
33 *treat or cure, any venereal disease, or will treat or cure, or attempt*
34 *to treat or cure, any person afflicted with any sexual disease, for*
35 *lost manhood, sexual weakness or sexual disorder or any disease*
36 *of the sexual organs; or being employed by, or being in the service*
37 *of any person, company or association so advertising. The*
38 *proceedings for the refusal to grant, suspension or revocation of*
39 *a license upon any of the foregoing grounds shall be conducted*
40 *in accordance with Chapter 5 (commencing with Section 11500)*

1 of Part 1 of Division 3 of Title 2 of the Government Code as it now
2 reads or as it may be hereafter amended, and the board shall have
3 all the powers granted therein. The secretary of the board on all
4 cases of revocation shall enter on his or her register the fact of
5 the revocation, and shall certify the fact of the revocation under
6 the seal of the board to the county clerk of the counties in which
7 the certificates of the person whose certificate has been revoked
8 is recorded; and the clerk shall write upon the margin or across
9 the face of his or her register of the certificate of the person the
10 following: "This certificate was revoked on the _____ day of
11 _____," giving the day, month, and year of the revocation in
12 accordance with the certification to him or her by the secretary.
13 The record of revocation made by the county clerk shall be prima
14 facie evidence of the fact thereof, and of the regularity of all
15 proceedings of the board in the matter of the revocation.

16 (c) At any time after two years following the revocation or
17 cancellation of a license or registration under this section, the
18 board may, by a majority vote, reissue a license to the person
19 affected, restoring him or her to, or conferring on him or her all
20 the rights and privileges granted by his or her original license or
21 certificate. Any person to whom such rights have been restored
22 shall pay to the secretary the fee specified in Section 1005 upon
23 the issuance of a new license.

24 SEC. 21. Section 1011 is added to the Business and Professions
25 Code, to read:

26 1011. (a) All proceedings related to the refusal to grant, or
27 to the suspension or revocation of, a license, or for the reissuance
28 or reinstatement of a license that has been suspended or revoked,
29 or for the disciplining of licensees shall be conducted in
30 accordance with Chapter 5 (commencing with Section 11500) of
31 Part 1 of Division 3 of Title 2 of the Government Code, and the
32 board shall have all the powers granted therein.

33 (b) In reaching a decision on a disciplinary action, the board
34 shall consider the disciplinary guidelines entitled "Disciplinary
35 Guidelines and Model Disciplinary Orders" [revised October 21,
36 2004], which are hereby incorporated by reference. Deviation
37 from these guidelines and orders, including the standard terms of
38 probation, is appropriate if the board in its sole discretion
39 determines that the facts of the particular case warrant the

1 deviation; for example, the presence of mitigating factors, the age
2 of the case, and evidentiary problems.

3 (c) Any proposed decision or decision issued in accordance
4 with the procedures set forth in Chapter 5 (commencing with
5 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
6 Code that contains any finding of fact that the licensee has a second
7 separate conviction for fraud, shall contain an order of revocation
8 that shall not be stayed.

9 SEC. 22. Section 1012 is added to the Business and Professions
10 Code, to read:

11 1012. Licenses issued under the provisions of this section expire
12 at midnight on the last day of the month of birth of licentiates of
13 the board.

14 The board shall establish regulations for the administration of
15 a birth month renewal program. Each person practicing
16 chiropractic within this state shall, on or before the last day of
17 their month of birth of each year, after a license is issued to them
18 as herein provided, pay to the State Board of Chiropractic
19 Examiners a renewal fee of not more than one hundred fifty dollars
20 (\$150) as determined by the board. The secretary shall mail to all
21 licensed chiropractors in this state, on or before 60 days prior to
22 the last day of the month of their birth each year, a notice that the
23 renewal fee will be due on or before the last day of the month of
24 their birth next following. Nothing in this chapter shall be
25 construed to require the receipts to be recorded in like manner as
26 original licenses. The failure, neglect, or refusal of any person
27 holding a license or certificate to practice under this chapter in
28 the State of California to pay the annual fee during the time his
29 or her license remains in force shall, after a period of 60 days
30 from the last day of the month of his or her birth automatically
31 work a forfeiture of his or her license or certificate, and it shall
32 not be restored except upon the written application and the
33 payment to the board of a fee of twice the annual amount of the
34 renewal fee in effect at the time the restoration application is filed,
35 except that a licensee who fails, refuses or neglects to pay the
36 annual tax within a period of 60 days after the last day of the month
37 of his or her birth of each year shall not be required to submit to
38 an examination for the reissuance of the certificate.

39 SEC. 23. Section 1012.5 is added to the Business and
40 Professions Code, to read:

1 1012.5. *The Legislature may by law fix the amounts of the fees*
2 *payable by applicants and licensees and the amount of the per*
3 *diem compensation payable to members of the board.*

4 SEC. 24. *Section 1013 is added to the Business and Professions*
5 *Code, to read:*

6 1013. *Chiropractic licensees shall observe and be subject to*
7 *all state and municipal regulations relating to all matters*
8 *pertaining to the public health, and shall sign death certificates*
9 *and make reports as required by law to the proper authorities,*
10 *and those reports shall be accepted by the officers of the*
11 *departments to which they are made.*

12 SEC. 25. *Section 1014 is added to the Business and Professions*
13 *Code, to read:*

14 1014. *The executive officer shall at the end of each month*
15 *report to the Controller the total amount of money received by the*
16 *board from all sources, and shall deposit with the Treasurer the*
17 *entire amount of those receipts, and the Treasurer shall place the*
18 *money so received in a special fund, to be known as the "State*
19 *Board of Chiropractic Examiners' Fund". Moneys in the fund*
20 *shall be expended in accordance with law for all necessary and*
21 *proper expenses in carrying out the provisions of this chapter,*
22 *upon proper claims approved by the board or a finance committee*
23 *thereof. All appropriations from the fund shall be made by the*
24 *Legislature in the annual Budget Act.*

25 SEC. 26. *Section 1015 is added to the Business and Professions*
26 *Code, to read:*

27 1015. *Any person who practices or attempts to practice*
28 *chiropractic, or any person who buys, sells, or fraudulently obtains*
29 *a license to practice chiropractic, whether recorded or not, or who*
30 *uses the title "chiropractor" or "D.C." or any word or title to*
31 *induce, or tending to induce belief that he or she is engaged in the*
32 *practice of chiropractic, without first complying with the provisions*
33 *of this chapter; or any licensee under this chapter who uses the*
34 *word "doctor" or the prefix "Dr." without the word*
35 *"chiropractor," or "D.C." immediately following his or her name,*
36 *or the use of the letters "M.D." or the words "doctor of medicine,"*
37 *or the term "surgeon," or the term "physician," or the word*
38 *"osteopath," or the letters "D.O." or any other letters, prefixes*
39 *or suffixes, the use of which would indicate that he or she was*
40 *practicing a profession for which he or she held no license from*

1 *the State of California, or any person who violates any of the*
2 *provisions of this chapter, shall be guilty of a misdemeanor and,*
3 *upon conviction thereof, shall be punished by a fine of not less*
4 *than one hundred dollars (\$100) and not more than seven hundred*
5 *fifty dollars (\$750), or by imprisonment in the county jail for not*
6 *more than six months, or by both that fine and imprisonment.*

7 *SEC. 27. Section 1016 is added to the Business and Professions*
8 *Code, to read:*

9 *1016. Nothing in this chapter shall be construed to prohibit*
10 *service in case of emergency, or the domestic administration of*
11 *chiropractic, nor shall this chapter apply to any chiropractor from*
12 *any other state or territory who is actually consulting with a*
13 *licensed chiropractor in this state; provided, that the consulting*
14 *chiropractor shall not open an office or appoint a place to receive*
15 *patients within the limits of the state; nor shall this chapter be*
16 *construed so as to discriminate against any particular school of*
17 *chiropractic, or any other treatment; nor to regulate, prohibit or*
18 *apply to any kind of treatment by prayer; nor to interfere in any*
19 *way with the practice of religion. Nor shall this chapter apply to*
20 *persons who are licensed under other acts.*

21 *SEC. 28. Section 1017 is added to the Business and Professions*
22 *Code, to read:*

23 *1017. It shall be the duty of the board to aid attorneys and law*
24 *enforcement agencies in the enforcement of this chapter.*

25 *SEC. 29. Section 1018 is added to the Business and Professions*
26 *Code, to read:*

27 *1018. Nothing herein shall be construed as repealing the*
28 *“Medical Practice Act” of June 2, 1913, or any subsequent*
29 *amendments thereof, except in so far as that act or amendments*
30 *to that act conflict with the provisions of this chapter as applied*
31 *to persons licensed under this chapter, to which extent any and*
32 *all acts or parts of acts in conflict herewith are hereby repealed.*

33 *SEC. 30. Section 1018.5 is added to the Business and*
34 *Professions Code, to read:*

35 *1018.5. This chapter, as amended, may be further amended or*
36 *modified by the Legislature. In addition to the power to amend or*
37 *modify, the Legislature shall have the power to repeal this chapter,*
38 *as amended, in its entirety.*

39 *SEC. 31. Section 1019 is added to the Business and Professions*
40 *Code, to read:*

1 1019. *If any provision or application of this chapter is for any*
2 *reason held to be unconstitutional, the decision shall not affect*
3 *the validity of the remaining provisions of this chapter, or*
4 *applications thereof.*

5 SEC. 32. *Section 1 of the act cited in the title is amended to*
6 *read:*

7 Section 1. A board is hereby created to be known as the “State
8 Board of Chiropractic Examiners,” hereinafter referred to as the
9 board. The board shall consist of seven members. *Five members*
10 *shall be appointed by the Governor, subject to confirmation by the*
11 *Senate, two of whom shall be public members. The Senate*
12 *Committee on Rules and the Speaker of the Assembly shall each*
13 *appoint one public member.* Each member shall be a citizen of the
14 United States and shall have been a resident of California for five
15 years. ~~Two members shall be public members.~~ Each licensee
16 member shall have had at least five years of licensure in this state
17 prior to appointment. Each licensee member ~~must~~ *shall* have
18 pursued a resident course in an approved chiropractic school or
19 college, and ~~must~~ *shall* be a graduate thereof and hold a diploma
20 therefrom.

21 Not more than two persons shall serve simultaneously as
22 members of ~~said~~ *the* board, whose first diplomas were issued by
23 the same school or college of chiropractic, nor shall more than two
24 members be residents of any one county of the state. And no person
25 who is or within one year of the proposed appointment has been
26 an administrator, policy board member, or paid employee of any
27 chiropractic school or college shall be eligible for appointment to
28 the board. Each member of the board shall receive a per diem in
29 the amount provided in Section 103 of the Business and Professions
30 Code for each day during which he *or she* is actually engaged in
31 the discharge of his *or her* duties, together with his *or her* actual
32 and necessary travel expenses incurred in connection with the
33 performance of the duties of his *or her* office, ~~such and the~~ per
34 diem, travel expenses and other incidental expenses of the board
35 or of its members shall be paid out of the funds of the board
36 hereinafter defined and not from the state’s taxes.

37 *The Legislature may, upon review, repeal this section and*
38 *reconstitute the board.*

39 SEC. 33. *Section 1.5 is added to the act cited in the title, to*
40 *read:*

1 *Sec. 1.5. Protection of the public shall be the highest priority*
2 *for the board in exercising its licensing, regulatory, and*
3 *disciplinary functions. Whenever the protection of the public is*
4 *inconsistent with the other interests sought to be promoted, the*
5 *protection of the public shall be paramount.*

6 *SEC. 34. Section 2 of the act cited in the title is amended to*
7 *read:*

8 ~~Sec. 2. The Governor shall appoint the members of the board.~~
9 Each appointment to the board shall be for the term of four years,
10 except that an appointment to fill a vacancy shall be for the
11 unexpired term only. Each member shall serve until his successor
12 has been appointed and qualified or until one year has elapsed
13 since the expiration of his *or her* term whichever first occurs. No
14 person shall serve more than two consecutive terms on the board
15 nor be eligible for appointment thereafter until the expiration of
16 four years from the expiration of such second consecutive term,
17 effective January 2, 1974. The Governor may remove a member
18 from the board after receiving sufficient proof of the inability or
19 misconduct of ~~said~~ the member.

20 *SEC. 35. Section 3 of the act cited in the title is amended to*
21 *read:*

22 Sec. 3. The board shall elect a chairman and a vice chairman
23 and a secretary to be chosen from the members of the board. The
24 board shall ~~employ~~ *appoint a person exempt from civil service, by*
25 *and with the approval of the Director of Consumer Affairs, to be*
26 *designated as an executive officer and fix his salary with the*
27 ~~approval of the Director of Finance.~~ Elections of the officers shall
28 occur annually at the January meeting of the board. A majority of
29 the board shall constitute a quorum.

30 It shall require the affirmative vote of four members of ~~said~~ the
31 board to carry any motion or resolution, to adopt any rule, or to
32 authorize the issuance of any license provided for in this act. The
33 executive officer shall receive a salary to be fixed by the board,
34 *with the approval of the Director of Finance,* together with his *or*
35 *her* actual and necessary traveling expenses incurred in connection
36 with the performance of the duties of his *or her* office, and shall
37 give bond to the state in ~~such~~ *a sum and* with such sureties as the
38 board may deem proper. He *or she* shall keep a record of the
39 proceedings of the board, which shall at times during business
40 hours be open to the public for inspection. He *or she* shall keep a

1 true and accurate account of all funds received and of all
2 expenditures incurred or authorized by the board, and on the first
3 day of December of each year he *or she* shall file with the Governor
4 or his *or her* designee, a report of all receipts and disbursements
5 and of the proceedings of the board for the preceding fiscal year.

6 *SEC. 36. Section 4 of the act cited in the title is amended to*
7 *read:*

8 Sec. 4. Powers of the board. The board shall have power:

9 (a) To adopt a seal, which shall be affixed to all licenses issued
10 by the board.

11 (b) To adopt from time to time ~~such~~ rules and regulations as the
12 board may deem proper and necessary for the performance of its
13 work, the effective enforcement and administration of this act, the
14 establishment of educational requirements for license renewal, and
15 the protection of the public. ~~Such~~ *These* rules and regulations shall
16 be adopted, amended, repealed and established in accordance with
17 the provisions of Chapter 4.5 (commencing with Section ~~11371~~
18 *11400*) of Part 1 of Division 3 of Title 2 of the Government Code
19 as it now reads or as it may be hereafter amended by the
20 Legislature.

21 (c) To examine applicants and to issue and revoke licenses to
22 practice chiropractic, as ~~herein~~ provided *in this act*.

23 (d) To summon witnesses and to take testimony as to matters
24 pertaining to its duties; and each member shall have power to
25 administer oaths and take affidavits.

26 (e) To do any and all things necessary or incidental to the
27 exercise of the powers and duties ~~herein~~ granted or imposed *by*
28 *this act*.

29 (f) To determine minimum requirements for teachers in
30 chiropractic schools and colleges.

31 (g) To approve chiropractic schools and colleges whose
32 graduates may apply for licenses in this state. The following shall
33 be eligible for approval:

34 (1) Any chiropractic school or college having status with the
35 accrediting agency and meeting the requirements of Section 5 of
36 this act and the rules and regulations adopted by the board.

37 (2) Any chiropractic school or college initially commencing
38 instruction prior to the effective date of the amendments to this
39 section approved by the electors at the November, 1976, general
40 election, provided ~~such~~ *that the* school or college meets the

1 requirements of Section 5 of this act and the rules and regulations
2 adopted by the board and provided ~~such that the~~ school or college
3 attains status with the accrediting agency within a time period
4 commencing on the effective date of this provision and ending
5 March 1, 1980.

6 (3) Any chiropractic school or college initially commencing
7 instruction subsequent to the effective date of the amendments to
8 this section approved by the electors at the November, 1976,
9 general election, provided ~~such that the~~ school or college meets
10 the requirements of Section 5 of this act and the rules and
11 regulations adopted by the board and provided ~~such that the~~ school
12 or college attains status with the accrediting agency within a time
13 period not exceeding three years following ~~such the~~ commencement
14 of instruction.

15 Upon submission of evidence satisfactory to the board that the
16 accrediting agency has unreasonably denied status to a chiropractic
17 school or college approved under paragraph (2) or (3) of this
18 subdivision by not considering the application for status submitted
19 by that school or college in a timely manner, by denying the
20 application for status submitted by that school or college without
21 good cause, or by imposing arbitrary and capricious additional
22 requirements upon that school or college as conditions for the
23 attainment of status, the board shall grant an extension of the time
24 period for the attainment of status specified in the paragraph under
25 which that school or college is approved, as it applies to that school
26 or college, of at least six months but no more than one year. Prior
27 to the expiration of ~~such the~~ extension or of any additional
28 extension the board grants, the board shall determine whether that
29 school or college has been unreasonably denied status by the
30 accrediting agency for any of the reasons specified in the
31 immediately preceding sentence during the extension. Should the
32 board determine ~~such that~~ unreasonable denial of status during the
33 extension has occurred, the board shall grant an additional
34 extension of the time period for the attainment of status, as it
35 applies to that school or college, of at least six months but no more
36 than one year.

37 As used in this section, "accrediting agency" means (1) the
38 Accrediting Commission of the Council on Chiropractic Education,
39 other chiropractic school and college accrediting agencies as may
40 be recognized by the United States Commissioner of Education,

1 or chiropractic school and college accrediting agencies employing
2 equivalent standards for accreditation as determined by the board,
3 (2) in the event ~~such that the~~ commission ceases to exist or ceases
4 to be recognized by ~~such the~~ commissioner, a chiropractic school
5 and college accrediting agency as may be designated by the board
6 or chiropractic school and college accrediting agencies employing
7 equivalent standards for accreditation as determined by the board,
8 or (3) in the event ~~such that the~~ commission ceases to exist or
9 ceases to be recognized by ~~such the~~ commissioner, no other ~~such~~
10 accrediting agency is recognized by ~~such the~~ commissioner, and
11 no ~~such~~ accrediting agency is acceptable to the board, the board.

12 As used in this section, “status” means correspondent status,
13 status as a recognized candidate for accreditation, accredited status,
14 or other similar status as may be adopted and used by the
15 accrediting agency.

16 As used in this section, “in a timely manner” means within the
17 time deadlines as may be established by the accrediting agency
18 for submission of applications, consideration of applications
19 submitted, acceptance or rejection of applications submitted, and
20 other similar functions, as those time deadlines are interpreted by
21 the board.

22 As used in this section, “without good cause” means not in
23 accordance with rules and regulations that may be established by
24 the accrediting agency as conditions for the attainment of status,
25 as those rules and regulations are interpreted by the board.

26 As used in this section, “arbitrary and capricious additional
27 requirements” means requirements ~~which that~~ may be imposed by
28 the accrediting agency as conditions for the attainment of status
29 during the time period specified for the attainment of status by a
30 chiropractic school or college that, in the board’s judgement, cannot
31 be satisfied within ~~such the~~ time period or do not serve to improve
32 the educational standards or quality of ~~such the~~ school or college.

33 (h) The board may employ ~~such any~~ investigators, clerical
34 assistants, commissioners on examination, and other employees
35 as it may deem necessary to carry into effect the provisions of this
36 act, and shall prescribe the duties of ~~such those~~ employees. *Persons*
37 *employed pursuant to this subdivision shall be subject to the State*
38 *Civil Service Act (Part 2 (commencing with Section 18500) of*
39 *Division 5 of Title 5 of the Government Code).*

1 *SEC. 37. Section 6 of the act cited in the title is amended to*
2 *read:*

3 Sec. 6. (a) The office of the board shall be in the City of
4 Sacramento. Suboffices may be established in Los Angeles and
5 San Francisco, and ~~such~~ any records as may be necessary may be
6 transferred temporarily to ~~such~~ the suboffices. Legal proceedings
7 against the board may be instituted in any one of the three cities.

8 (b) *All meetings of the board shall be conducted in accordance*
9 *with the provisions of the Bagley-Keene Open Meeting Act (Article*
10 *9 (commencing with Section 11120) of Chapter 1 of Part 1 of*
11 *Division 3 of Title 2 of the Government Code).*

12 ~~(b)~~

13 (c) The board shall meet as a board of examiners at least twice
14 each calendar year, at ~~such~~ times and places as may be found
15 necessary for the performance of its duties.

16 (d) *The board shall comply with the requirements of Chapter*
17 *22.5 (commencing with Section 7528) of Division 7 of Title 1 of*
18 *the Government Code and with the provisions of Article 10*
19 *(commencing with Section 11364) of Chapter 3.5 of Part 1 of*
20 *Division 3 of Title 2 of the Government Code.*

21 ~~(e)~~

22 (e) Examinations shall be written, oral, and practical, covering
23 chiropractic as taught in chiropractic schools or colleges, designed
24 to ascertain the fitness of the applicant to practice chiropractic.
25 ~~Said~~ The examination shall include at least each of the subjects as
26 set forth in Section 5 ~~hereof~~ *of this act*. Identity of the applicants
27 shall not be disclosed to the examiners until after examinations
28 have been given final grades. A license shall be granted to any
29 applicant who ~~shall make~~ *makes* a general average of 75 percent,
30 and *does* not fall below 60 percent in more than two subjects or
31 branches of the examination and ~~receive~~ *receives* a 75 percent
32 score in all parts of the practical examination as designated by the
33 board. Any applicant failing to make the required grade shall be
34 given credit for the branches passed, and may, without further cost,
35 take the examination at the next regular examination on the subjects
36 in which he *or she* failed. For each year of actual practice since
37 graduation the applicant shall be given a credit of 1 percent on the
38 general average.

39 ~~(d)~~

(f) An applicant having fulfilled the requirements of Section 5 and paid the fee thereunder, and having obtained a diplomate certificate from the National Board of Chiropractic Examiners, may offer ~~such~~ *the* certificate together with a transcript of grades secured in ~~said~~ *the* national board examination, and the California Board of Chiropractic Examiners may accept ~~same~~ *those* in lieu of all or a portion of the California board examination, as determined by the board.

SEC. 38. *Section 6.5 is added to the act cited in the title, to read:*

Sec. 6.5. *The Attorney General shall act as legal counsel for the board and shall represent the board in any judicial and administrative proceeding. His or her services shall be a charge against the board.*

SEC. 39. *Section 11 is added to the act cited in the title, to read:*

Sec. 11. (a) *All proceedings related to the refusal to grant, or to the suspension or revocation of, a license, or for the reissuance or reinstatement of a license that has been suspended or revoked, or for the disciplining of licensees shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.*

(b) *In reaching a decision on a disciplinary action, the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines and Model Disciplinary Orders" [revised October 21, 2004], which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate if the board in its sole discretion determines that the facts of the particular case warrant the deviation; for example, the presence of mitigating factors, the age of the case, and evidentiary problems.*

(c) *Any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee has a second separate conviction for fraud, shall contain an order of revocation that shall not be stayed.*

SEC. 40. *Section 14 of the act cited in the title is amended to read:*

1 Sec. 14. The executive officer shall at the end of each month
2 report to the ~~State~~ Controller the total amount of money received
3 by the board from all sources, and shall deposit with the ~~State~~
4 Treasurer the entire amount of ~~such~~ *those* receipts, and the ~~State~~
5 Treasurer shall place the money so received in a special fund, to
6 be known as the “State Board of Chiropractic Examiners’ Fund”.
7 ~~Such Moneys in the~~ fund shall be expended in accordance with
8 law for all necessary and proper expenses in carrying out the
9 provisions of this act, upon proper claims approved by said board
10 or a finance committee thereof. *All appropriations from the fund*
11 *shall be made by the Legislature in the annual Budget Act.*

12 SEC. 41. *Section 18.5 is added to the act cited in the title, to*
13 *read:*

14 *Sec. 18.5. This act, as amended, may be further amended or*
15 *modified by the Legislature. In addition to the power to amend or*
16 *modify, the Legislature shall have the power to repeal this act, as*
17 *amended, in its entirety.*

18 SEC. 42. *Sections 32 to 41, inclusive, of this act shall become*
19 *effective only when submitted to and if approved by the electors*
20 *pursuant to subdivision (c) of Section 10 of Article II of the*
21 *California Constitution. The Secretary of State is hereby directed*
22 *to place those provisions on the ballot of the next statewide election*
23 *for approval by the electors in accordance with the applicable*
24 *provisions of law.*

25 SEC. 43. *Sections 2 to 31, inclusive, of this act shall become*
26 *operative on the date upon which Sections 32 to 41, inclusive, of*
27 *this act are approved by the electors.*

28 SECTION 1. ~~Section 473.4 of the Business and Professions~~
29 ~~Code is amended to read:~~

30 ~~473.4. (a) The Joint Committee on Boards, Commissions, and~~
31 ~~Consumer Protection shall evaluate and determine whether a board~~
32 ~~or regulatory program has demonstrated a public need for the~~
33 ~~continued existence of the board or regulatory program and for~~
34 ~~the degree of regulation the board or regulatory program~~
35 ~~implements based on the following factors and minimum standards~~
36 ~~of performance:~~

37 ~~(1) Whether regulation by the board is necessary to protect the~~
38 ~~public health, safety, and welfare.~~

39 ~~(2) Whether the basis or facts that necessitated the initial~~
40 ~~licensing or regulation of a practice or profession have changed.~~

~~(3) Whether other conditions have arisen that would warrant increased, decreased, or the same degree of regulation.~~

~~(4) If regulation of the profession or practice is necessary, whether existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether the board rules enhance the public interest and are within the scope of legislative intent.~~

~~(5) Whether the board operates and enforces its regulatory responsibilities in the public interest and whether its regulatory mission is impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personnel matters.~~

~~(6) Whether an analysis of board operations indicates that the board performs its statutory duties efficiently and effectively.~~

~~(7) Whether the composition of the board adequately represents the public interest and whether the board encourages public participation in its decisions rather than participation only by the industry and individuals it regulates.~~

~~(8) Whether the board and its laws or regulations stimulate or restrict competition, and the extent of the economic impact the board's regulatory practices have on the state's business and technological growth.~~

~~(9) Whether complaint, investigation, powers to intervene, and disciplinary procedures adequately protect the public and whether final dispositions of complaints, investigations, restraining orders, and disciplinary actions are in the public interest; or if it is, instead, self-serving to the profession, industry, or individuals being regulated by the board.~~

~~(10) Whether the scope of practice of the regulated profession or occupation contributes to the highest utilization of personnel and whether entry requirements encourage affirmative action.~~

~~(11) Whether administrative and statutory changes are necessary to improve board operations to enhance the public interest.~~

~~(12) Whether the functions of the board would be accomplished more effectively if the board were replaced by a single executive officer.~~

~~(b) The Joint Committee on Boards, Commissions, and Consumer Protection shall consider alternatives to placing~~

1 responsibilities and jurisdiction of the board under the Department
2 of Consumer Affairs.
3 (e) ~~Nothing in this section precludes any board from submitting~~
4 ~~other appropriate information to the Joint Committee on Boards,~~
5 ~~Commissions, and Consumer Protection.~~

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